

**Coolbrith, Elizabeth (CAT)**

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**From:** For Cal PRA <forcalpra@gmail.com>  
**Sent:** Wednesday, April 17, 2019 12:56 AM  
**To:** CityAttorney  
**Subject:** Sunshine Ordinance Legal Opinion Request – RFLA-2019041701-SF  
**Attachments:** RFLA-2019041701-SF - Request for Opinion - SF City Attorney - a.pdf

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Please see the attached letter. An email acknowledgement would be appreciated.



forcalpra@gmail.com

**Please USE EMAIL ONLY for all communication.**

Dennis J. Herrera, City Attorney, City and County of San Francisco  
City Hall, Room 234  
1 Dr. Carlton B. Goodlett Pl.  
San Francisco, CA  
cityattorney@sfcityatty.org  
*via email only*

Our ref.

RFLA-2019041701-SF

Date

2019-04-17

**RE: Sunshine Ordinance Legal Opinion Request – RFLA-2019041701-SF**

To Whom It May Concern:

Pursuant to San Francisco Administrative Code Sec. 67.21(i) which reads in relevant part “The City Attorney may publish legal opinions in response to a request from *any person* as to whether a record or information is public” (emphasis mine), I<sup>1</sup> am requesting your legal opinion regarding whether certain records or information would be considered public under the San Francisco Sunshine Ordinance (Ordinance). As the same paragraph also states that requests for opinion and opinions are public records, I will not treat your response as confidential, and I hope you publish it on your website.

**QUESTION 1:** Are electronic metadata (for example, but not limited to, creation timestamps, EXIF attributes, e-mail headers and routing information) associated with a public record in electronic format and not otherwise explicitly exempt from disclosure by the ordinance, public under the Ordinance?

**QUESTION 2:** Are lossless copies of the original electronic forms of an electronic public record public under the Ordinance? (For example, a “lossy” copy of an email record would be the email converted to PDF format and then redacted appropriately, or a text message record converted to a screen capture image of an iPhone showing the message. On the other hand, a “lossless” copy of an email or text message record

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<sup>1</sup>I am an anonymous (non-lawyer) member of the public.

would be the original file as stored on the server or phone.)

My (non-lawyer) position on both questions is “Yes,” for at least the following reasons: (i) electronic metadata is part of the record as stored on the servers owned or contracted by the public agencies, (ii) Cal Govt Code Sec. 6253.9(a)(1) requires that an agency “make the information available in any electronic format in which it holds the information,” (iii) the Ordinance requires that withholding be kept to a minimum and explicitly justified, and (iv) providing lossy copies instead of lossless copies inadvertently withholds substantial portions of the original record, most importantly, electronic metadata, without any justification.

Thank you for your assistance in these matters. I hope to hear from you soon.

Sincerely,

forcalpra@gmail.com

